

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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1042 II REALTY, INC,	:	
	:	
Plaintiff,	:	
-against-	:	
	:	21-CV-2761 (VEC)
OCWEN LOAN SERVICING, LLC,	:	
	:	
Defendant.	:	<u>ORDER</u>
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VALERIE CAPRONI, United States District Judge:

WHEREAS on April 7, 2021, Defendant filed a motion to dismiss, Dkt. 5;

WHEREAS on April 30, 2021, Plaintiff filed a response in opposition to the motion to dismiss and cross-moved for summary judgment, Dkt. 10;

WHEREAS on May 3, 2021, the Court ordered Plaintiff to show cause why the cross-motion for summary judgment should not be summarily denied for failure to file a Rule 56.1 Statement in contravention of SDNY Local Rule 56.1;

WHEREAS on May 6, 2021, Plaintiff explained that he inadvertently omitted the Rule 56.1 Statement, Dkt. 12;<sup>1</sup>

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<sup>1</sup> Plaintiff's counsel explained that he was contacted by Plaintiff's original counsel, Avinoam Rosenfeld, on April 29, 2021 to assist in filing an opposition to the motion to dismiss that was due the next day. *See* Decl., Dkt. 12 ¶ 4. Plaintiff's counsel attests that Mr. Rosenfeld conveyed to him that he was having trouble obtaining admission to this Court. *Id.* While the Court understands that Plaintiff's counsel was only brought into this matter at the last minute, the Court notes that Mr. Rosenfeld had numerous opportunities to address his issues with admission. Defense counsel served the notice of removal on Mr. Rosenfeld on March 31, 2021. *See* Cert. of Service, Dkt. 1-1. Defense counsel served the notice of initial pretrial conference on Mr. Rosenfeld on April 6, 2021. *See* Cert. of Service, Dkt. 4. After Defense counsel filed a motion to dismiss, the Court ordered Mr. Rosenfeld to file a notice of appearance by no later than April 23, 2021 and to respond in opposition to the motion to dismiss by April 30, 2021. *See* Order, Dkt. 7. Defense counsel served a copy of the Court's Order on Mr. Rosenfeld on April 14, 2021. *See* Cert. of Service, Dkt. 8. Mr. Rosenfeld did not comply with the April 23, 2021 deadline, nor did he contact the Court seeking an extension. It was only after Chambers independently contacted Mr. Rosenfeld that he informed the Court that he was having trouble obtaining admission to SDNY. Mr. Rosenfeld had the opportunity to file for admission *pro hac vice*, but failed to do so. Mr. Rosenfeld's application for regular admission to SDNY was rejected because of Mr. Rosenfeld's deficiencies in his application. Given that Mr.

WHEREAS Plaintiff filed a Rule 56.1 Statement and requested that the Court accept the Rule 56.1 Statement *nunc pro tunc, id.*;

WHEREAS the Plaintiff's Rule 56.1 Statement is deficient because it contains no citations to the record, *see* Rule H(ii)(a) of the undersigned's Individual Practices in Civil Cases ("Each factual assertion [in a 56.1 Statement] must be supported by a citation to the portion(s) of the evidentiary record relied upon."); and

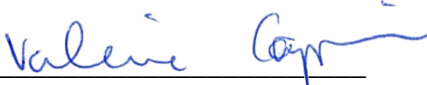
WHEREAS Defendant's reply in support of its motion to dismiss is due today, Friday, May 7, 2021, Dkt. 7;

IT IS HEREBY ORDERED that Plaintiff's response in opposition to the motion to dismiss and Plaintiff's cross-motion for summary judgment is STRICKEN from the record. By no later than **Monday, May 10, 2021**, Plaintiff must re-file its response and cross-motion. The filing must be in compliance with the Federal Rules of Civil Procedure, the SDNY Local Civil Rules, and the undersigned's Individual Practices in Civil Cases. Failure to comply with these rules may lead to the summary denial of Plaintiff's motion, sanctions, or both.

IT IS FURTHER ORDERED that Defendant's deadline to reply in support of its motion to dismiss and to respond in opposition to any cross-motion for summary judgment is adjourned to **Friday, May 14, 2021**. The Court recognizes that Defendant may need more than one week to prepare its brief and Rule 56.1 Statement. Defense counsel is welcome to file a request for an adjournment of this deadline. Plaintiff's reply in support of its cross-motion for summary judgment is due no later than **Friday, May 21, 2021**.

**SO ORDERED.**

**Date: May 7, 2021**  
**New York, New York**

  
**VALERIE CAPRONI**  
**United States District Judge**

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Rosenfeld had over three weeks to organize his admission to SDNY but failed to do so, the Court did not grant his last-minute request for an adjournment of his deadline to oppose the motion to dismiss.